

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JAN 11 2007

JOHN F. CORCORAN, CLERK
BY: *J. F. Corcoran*
DEPUTY CLERK

GREGORY A. RICHARDSON,)
Petitioner,)
)
v.)
)
PATRICIA S. CONNER, CLERK, et al.,)
Respondents.)
)
Civil Action No. 7:07-cv-00009

MEMORANDUM OPINION

By: James C. Turk
United States District Judge

Petitioner Gregory A. Richardson, a Virginia prisoner proceeding pro se, brings this action as a petition for a writ of mandamus and writ of prohibition. Richardson, who is incarcerated at Wallens Ridge State Prison, alleges that Patricia S. Conner, Clerk of the United States Court of Appeals for the Fourth Circuit, is threatening to dismiss his pending appeal in that court, No. 06-7908, for failure to prosecute unless petitioner prepays the filing fee for the appeal. Richardson asserts that Conner is thereby imposing a “constitutionally unenforceable demand” on him by threatening dismissal without giving him a chance to challenge the constitutionality of 28 U.S.C. § 1915(g). Richardson also seeks writs of prohibition against the Fourth Circuit itself and against the United States Congress, because he believes the appeal filing fees are too high.

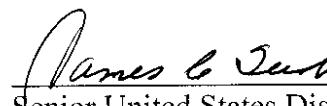
Court documents indicate that the Fourth Circuit dismissed Richardson's Appeal No. 06-7908 by order entered January 9, 2007. Therefore, his petition for writ of mandamus must be dismissed as moot.

In any event, Richardson fails to demonstrate that he is entitled to invoke the extraordinary remedies of writ of mandamus or writ of prohibition. Specifically, he has not established that other means of relief are inadequate or that he has a clear and undisputed right to the requested relief. Mallard v. United States Dist. Court, 490 U.S. 296, 309 (1989); In re Grand Jury Proceedings, Vargas, 723 F.2d 1461, 1468 (10th Cir. 1983). Therefore, this petition must be dismissed. An order

in accordance with this Memorandum Opinion will be entered this day.

The clerk shall send certified copies of this memorandum and the accompanying order to petitioner.

ENTER: This 11th day of January, 2007.



Senior United States District Judge